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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,272	02/27/2002	Monita Liu	1150-102.US	7119

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EXAMINER

ALAVI, ALI

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,272

Applicant(s)

CD0001306854

Examiner

Ali Alavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4, 7-15, 17, 18 and 20-26 is/are rejected.
- 7) ☐ Claim(s) 5, 6, 16 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Objections

1. Claims 24-25 are objected to because of the following informalities: In claim 24, delete "device" or change it to source. Claim 25 is objected to because liquid crystal device doesn't emit light by itself and requires a light source. Correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 7, 8, 11, 13, 15, 17, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (U. S. Pat. No 4,510,556).

Regarding claims 1 and 3, Johnson discloses an electronic apparatus for simulating a flame including: at least two light sources (14, 16, 18, fig. 1), an integrating circuit electrically (20) connected to the light sources for intermittently illuminating at least one of the light sources independently of other light sources such that the light sources together provide the effect of a flickering movement (col. 2, lines 1-10), a power source for providing power to the integrated circuit (6V, fig. 2).

Regarding claim 7, Johnson discloses the claimed invention as applied above in claim 1, and further discloses that the integrated circuit illuminates light sources in a random operation (see col. 1, lines 35-40).

Regarding claim 8, Johnson discloses the claimed invention as applied above in claim 1, and further discloses that the integrated circuit illuminates the light sources in a predetermined operation (see abstract, lines 7-10).

Regarding claim 11, Johnson discloses the claimed invention as applied above in claim 1, and further discloses a body in the shape of a candle in which the flame simulator is contained (12, fig. 2), the body having an upper end with a mounting means for receiving the integrated circuit and light sources and a chamber therein for receiving the power source (see fig. 2).

Regarding claim 13, Johnson discloses the claimed invention as applied above in claim 1, and further discloses the power source comprises at least one battery received within the chamber (6V, fig. 2)

Regarding claim 15, Johnson discloses the claimed invention as applied above in claim 1, and further discloses all of the light sources are intermittently illuminated (col. 2, lines 1-10).

Regarding claim 17, Johnson discloses the claimed invention as applied above in claim 1, and further discloses an electronic circuit generating at least one of random pulses (col. 2, lines 27-30).

Claims 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Chliwnyj et al (U. S. Pat. No 5,924,784).

Chliwnyj et al disclose a microprocessor based simulated electronic flame including a plurality of solid state type light sources (fig. 1, 7a-7e), an integrated circuit electrically connected to the light sources for intermittently illuminating at the light

source such that the light source provides the effect of a flickering movement (see fig. 1, and abstract), a power source for providing power to the integrated circuit (a power source is inherently required to supply power to an electronic device).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4 and 18 are rejected under U.S.C. 103(a) as being unpatentable over Johnson (U. S. Pat. No 4,510,556).

Regarding claim 2, Johnson discloses the claimed invention except for the four light sources. However, Johnson shows three light sources (12, 14, 16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use four light sources since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ.

Regarding claim 4, Johnson discloses the claimed invention except for the switch means that has three positions comprising an on position, an off position, and an on-timed position where the flame simulator will remain activated for a predetermined length of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a three positions switch in the electronic circuit

because it is old and well known in the art (for example night light, wash and dryer machine).

Regarding claim 18, Johnson discloses the claimed invention except for the LEDs. The examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of Johnson. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

Claims 9, 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U. S. Pat. No 4,510,556) in view of Mantle et al (US Pat. No 6,102,548).

Regarding claims 9 and 10, Johnson discloses the claimed invention except for the light sensor. Mantle et al discloses a light system for a mailbox including a light sensor (56, fig. 3, col. 3, lines 19-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a light sensor to Johnson lighting device in which activates the light only when insufficient ambient light is available as taught by Mantle.

Regarding claim 26, Johnson discloses the claimed invention except for the motion sensor. Mantle teaches that is old and well known to use a motion sensor as a suitable alternative to the electromagnetic switch assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a

motion sensor to Johnson lighting device circuitry in which activates the light only when there is a motion detected as taught by Mantle.

Claims 12, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U. S. Pat. No 4,510,556) in view of Chien (US Pat. No 6,280,053).

Regarding claims 12 and 20 Johnson discloses the claimed invention except for the electrical connectors for connecting to the power source to an external power member. Chien discloses a multiple function electro-luminescent night light device having a pair of prongs to plug the nightlight to an external outlet/ power member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the light device of Johnson by incorporating an external cord or a pair of plug to the lighting device in order to have an alternate in case of power failure as taught by Chien.

Regarding claim 14, Johnson discloses the claimed invention except for the battery is selected from a group consisting of rechargeable and disposable batteries. Chien discloses a multiple function electro-luminescent night light device including rechargeable batteries. It would have been obvious to an ordinary skill in the art at the time the invention was made to modify the light device of Johnson by incorporating a rechargeable circuit to the lighting device of Johnson because battery type may of course be varied within the scope of the invention and may include alkaline or other non-rechargeable batteries, as well as rechargeable batteries of various types as taught by Chien.

Allowable Subject Matter

4. Claims 5, 6, 16, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 5 and 6 are objected to because in part recite "...further comprising a microphone connected to the integrated circuit wherein the microphone inputs pre-selected audio signals which are processed by the integrated circuit to which the flame simulator between and on position, an off position and an on-timed position where the flame simulator will remain activated for a predetermined length of time." Claim 16 is objected to because in part recites "...a body in the shape of a fire log in which the flame simulator is contained, the body having a receiving means with a mounting means for receiving the integrated circuit and light sources and a chamber therein for receiving the power source." Claim 19 is objected to because in part recites "...wherein the integrated circuit is mounted on a flexible base which can be shaped so as to conform to the shape of at least a portion of the candle to conserve space." The prior art of record failed to show or reasonably suggest the limitations as set forth in dependent claims, in such manner that a rejection under 35 U.S.C. 102 or 103 would be proper.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horowitz et al (US Pat. No 6,053,622) disclose an ornamental electronic Menoreh including a LED circuit operably connected to a power supply circuit,

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and sensor capable of sending signal stimulus. Ignon et al discloses a flickering candle lamp in which all and all are cited of interest.

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Ali Alavi whose telephone number is (703) 305-0522. The examiner can normally be reached between 8:00 A.M. to 4:30 P.M. Monday to Friday. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Sandy O'Shea can be reached at (703) 305-4939 or you may fax your inquiry to the receptionist at (703) 308-7382.

Ali Alavi

A handwritten signature in black ink, appearing to read "Ali Alavi", followed by a long, horizontal, slightly wavy line that extends to the right.

5/01/03